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9  
10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-679

13 **MARY JOSEPHINE LARKIN**  
14 **aka MARY J. LARKIN**  
**12291 Carmel Vista Rd., Unit #111**  
**San Diego, CA 92130**

**A C C U S A T I O N**

15 **Registered Nurse License No. 719155**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
23 Consumer Affairs.

24 2. On or about February 4, 2008, the Board of Registered Nursing issued Registered  
25 Nurse License Number 719155 to Mary Josephine Larkin, also known as Mary J. Larkin  
26 (Respondent). The Registered Nurse License expired on August 31, 2009, and has not been  
27 renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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## COSTS

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

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1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
2 included in a stipulated settlement.

3 **CAUSE FOR DISCIPLINE**

4 **(Out-of-State Discipline Against Respondent's Nursing License)**

5 8. Respondent has subjected her license to disciplinary action under section 2761,  
6 subdivision (a)(4) of the Code in that her registered nurse license was disciplined by the Delaware  
7 Board of Nursing. The circumstances are as follows:

8 9. On or about December 8, 2010, before the Delaware Board of Nursing (Delaware  
9 Board), in Case No. 11-57-09, a hearing was held in the matter of a disciplinary complaint filed  
10 against Respondent and her Delaware registered nursing license. Respondent was properly  
11 noticed of the hearing, but failed to attend. The complaint alleged that Respondent violated the  
12 provisions of Title 24 of the Delaware Code section 1922(a)(3) in that she was unfit and  
13 incompetent to practice nursing by reason of her addiction to narcotics; section 1922(a)(4) in that  
14 Respondent habitually used and is addicted to the use of habit-forming drugs; and section  
15 1922(a)(8) in that her conduct was unprofessional due to violations of Delaware Board Rule  
16 numbers 10.4.2.14 (diverted drugs from patients and her employer), 10.4.2.15 (diverted,  
17 possessed, obtained and administered prescription drugs to herself without authorization), and  
18 10.4.2.4 (falsified patient records).

19 10. After direct testimony and presentation of evidence, the Delaware Board found that  
20 the State failed to meet its burden of proof as to the alleged violations of Title 24 of the Delaware  
21 Code sections 1922(a)(3) and 1922(a)(4). The Delaware Board did find that Respondent was  
22 guilty of unprofessional conduct under Title 24 of the Delaware Code section 1922(a)(8) due to  
23 violations of Delaware Board Rule numbers 10.4.2.14, 10.4.2.15, and 10.4.2.4.

24 11. After considering the mitigating and aggravating factors to determine the appropriate  
25 disciplinary sanctions, on February 9, 2011, the Delaware Board ordered that Respondent's  
26 nursing license be permanently revoked.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 719155, issued to Mary  
5 Josephine Larkin, also known as Mary J. Larkin;

6 2. Ordering Mary Josephine Larkin to pay the Board of Registered Nursing the  
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.  
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12 DATED: February 27, 2013 for *Louise R. Bailey*  
13 LOUISE R. BAILEY, M.ED., RN  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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